

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION

No. 12-md-2323(AB)

MDL No. 2323

**Second Amended Master Administrative  
Long-Form Complaint Against Riddell  
Defendants and (if applicable) Andrews, et  
al. v. National Football League [et al.],  
No. 2:12-cv-04632-AB**

**SHORT FORM COMPLAINT**

**IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION**

**This is a Short Form Complaint related to  
Plaintiff David Macklin**

**JURY TRIAL DEMANDED**

**SHORT FORM COMPLAINT AGAINST RIDDELL DEFENDANTS**

1. Plaintiff David Macklin brings this civil action as a related action in the matter entitled IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION, MDL No. 2323.

2. Plaintiff is filing this Short Form Complaint against Riddell Defendants as required by this Court's Case Management Order filed October 10, 2017.

3. Plaintiff continues to maintain claims against Riddell Defendants after a Class Action Settlement was entered into between the NFL Defendants and certain Plaintiffs.

4. Plaintiff incorporates by reference the allegations (as designated below) of the Second Amended Master Administrative Long-Form Complaint Against Riddell Defendants, as is fully set forth at length in this Short Form Complaint.

5. ~~[Fill in if applicable] Plaintiff is filing this case in a representative capacity as the \_\_\_\_\_ of \_\_\_\_\_, having been duly appointed as the \_\_\_\_\_ by the Court of \_\_\_\_\_.~~ (Cross out sentence below if not applicable.) Copies of the Letters of

~~Administration/Letters Testamentary for a wrongful death claim are annexed hereto if such Letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent.~~

6. Plaintiff David Macklin is a resident and citizen of Phoenix, Arizona and claims damages as set forth below.

~~7. Plaintiff's Spouse \_\_\_\_\_ is a resident and citizen of \_\_\_\_\_ and claims damages as a result of loss of consortium proximately caused by the harm suffered by her Plaintiff husband.~~

8. The Plaintiff sustained repetitive, traumatic sub-concussive and/or concussive head impacts during NFL games and/or practices. Upon information and belief, Plaintiff suffers from symptoms of brain injury caused by the repetitive, traumatic sub-concussive and/or concussive head impacts the Plaintiff sustained during NFL games and/or practices. Upon information and belief, the Plaintiff's symptoms arise from injuries that are latent and have developed and continue to develop over time.

9. The original complaint by Plaintiffs in this matter was filed in Southern District of New York. If the case is remanded, it should be remanded to Southern District of New York.

10. Plaintiffs claim damages as a result of [check all that apply]:

- ☒ Injury to Herself/Himself
- ☐ Injury to the Person Represented
- ☐ Wrongful Death
- ☐ Survivorship Action
- ☒ Economic Loss
- ☐ Loss of Services

☐ Loss of Consortium

~~11. [Fill in if applicable] As a result of the injuries to Plaintiff, Plaintiff's Spouse suffers from a loss of consortium, including the following injuries:~~

- ☐ Loss of marital services;
- ☐ Loss of companionship, affection or society;
- ☐ Loss of support; and
- ☐ Monetary losses in the form of unreimbursed costs expended for the health care and personal care of Plaintiff.

12. [Check if applicable] ☒ Plaintiff reserves the right to object to federal jurisdiction.

13. Plaintiff bring this case against the following Defendants in this action [check all that apply]:

- ☒ Riddell, Inc.
- ☒ All American Sports Corp.
- ☒ Riddell Sports Group, Inc.
- ☒ BRG Sports, Inc.
- ☒ BRG Sports Holdings Corp.
- ☒ Easton-Bell Sports, LLC
- ☒ EB Sports Corp.
- ☒ BRG Sports, LLC

14. [Check if applicable] ☒ The Plaintiff wore one or more helmets designed and/or manufactured by the Riddell Defendants during one or more years Plaintiff played in the NFL and/or AFL.

15. Plaintiff played in [check if applicable] ☒ the National Football League (“NFL”) and/or in [check if applicable] ☐ the American Football League (“AFL”) during the following period of time 2000-2009 for the following teams: Kansas City Chiefs; Washington Redskins; Arizona Cardinals and Indianapolis Colts.

16. Plaintiff retired from playing professional football after the 2009 season.

### **CAUSES OF ACTION**

17. Plaintiffs herein adopt by reference the following Counts of the Second Amended Master Administrative Long-Form Complaint, along with the factual allegations incorporated by reference in those Counts [check all that apply]:

- ☒ Count I (Negligence)
- ☒ Count II (Negligent Marketing)
- ☒ Count III (Negligent Misrepresentation)
- ☒ Count IV (Fraud)
- ☒ Count V (Strict Liability/Design Defect)
- ☒ Count VI (Failure to Warn)
- ☒ Count VII (Breach of Implied Warranty)
- ☒ Count VIII (Civil Conspiracy)
- ☒ Count IX (Fraudulent Concealment)

- ☐ Count X (Wrongful Death)
- ☐ Count XI (Survival Action)
- ☐ Count XII (Loss of Consortium)
- ☒ Count XIII (Punitive Damages under All Claims)
- ☒ Count XIV (Declaratory Relief: Punitive Damages)

18. Plaintiff asserts the following additional causes of action [write in or attach]:

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- A. An award of compensatory damages, the amount of which will be determined at trial;
- B. An award of economic damages in the form of medical expenses, out of pocket expenses, lost earnings and other economic damages in an amount to be determined at trial;
- C. For punitive and exemplary damages as applicable;
- D. For all applicable statutory damages of the state whose laws will govern this action;
- ~~E. For loss of consortium as applicable;~~
- F. For declaratory relief as applicable;
- G. For an award of attorneys' fees and costs;
- H. An award of prejudgment interest and costs of suit; and

I. An award of such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMAND**

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: November 28, 2017  
New York, NY

Respectfully Submitted,

By: /s/ Wendy R. Fleishman  
Wendy R. Fleishman

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